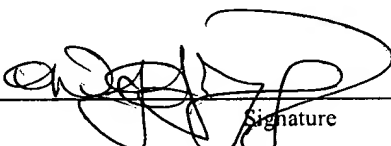




SH & RICHARDSON P.C.

PTO/SB/33 (07-05)
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U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number: 10559-457001
I hereby certify under 37 CFR §1.8(a) that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to Mail Stop AF, Commissioner for Patents, Box 1450, Alexandria, VA 22313-1450. <u>December 22, 2006</u> Date of Deposit <u>Diane M. Saturno</u> Signature <u>Diane M Saturno</u> Typed or Printed Name of Person Signing Certificate	Application Number 09/823,185	Filed March 29, 2001
	First Named Inventor Ravi L. Sahita, et al.	
	Art Unit 2155	Examiner Liang-Che Wang
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a Notice of Appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p>I am the</p> <p><input type="checkbox"/> applicant/inventor.</p> <p><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</p> <p><input checked="" type="checkbox"/> attorney or agent of record <u>59,173</u> (Reg. No.)</p> <p><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____</p> <p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.</p> <p><input type="checkbox"/> Total of no. forms are submitted.</p>		


Signature
Whitney A. Fellberg
Typed or printed name
(617) 542-5070
Telephone number
December 22, 2006
Date



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Ravi L. Sahita, et al. Art Unit : 2155
Serial No. : 09/823,185 Examiner : Liang-Che Wang
Filed : March 29, 2001 Conf. No. : 9173
Title : NETWORK NODE CONFIGURATION

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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Applicant requests a pre-appeal review pursuant to OG Notice: 12 July 2005 - New Pre-Appeal Brief Conference Pilot Program. This request is submitted with the Notice of Appeal. This request is submitted because the rejections are clearly improper and are without basis, due to clear legal and factual deficiencies in the rejections. All rights to address additional matters on appeal in any subsequent appeal brief are hereby reserved.

Claims 1-18 and 35-47 are pending, of which 1, 3, 9, 13, 35, 37, and 41 are independent. Claims 1-3, 5-6, 8-9, 11-13, 15-16, and 18 were rejected under 35 U.S.C. 103(a) as being unpatentable over *Champlin et al.*, U.S. Patent No. 6,519,635 ("*Champlin*") in view of *Ramberg et al.*, U.S. Patent No. 6,857,013 ("*Ramberg*"). Claims 4, 7, 10, 14, 17, and 35-43 were rejected under 35 U.S.C. 103(a) as being unpatentable over *Champlin* in view of *Ramberg* and in further view of *Pan et al.*, U.S. Patent No. 6,775,701 ("*Pan*"). Applicant submits that this rejection is clearly erroneous because even the combination of *Ramberg* and *Champlin* fails to describe or suggest a feature expressly recited in the independent claims. Further, the combination of *Ramberg*, *Champlin*, and *Pan* fails to describe or suggest a feature expressly recited in independent claims 35 and 37. Applicant requests withdrawal of all of these rejections.

CERTIFICATE OF MAILING BY FIRST CLASS MAIL

I hereby certify under 37 CFR §1.8(a) that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage on the date indicated below and is addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

December 29, 2006
Date of Deposit

Diane M. Saturno
Signature

Diane M. Saturno
Typed or Printed Name of Person Signing Certificate

Applicant specifically asks the panel to review the issue that *Champlin*, *Ramberg*, *Pan*, or any proper combination of these references does not describe or suggest “a second process in communication with said first process through a first protocol, said second process receiving communication transmitted across a network using a second protocol and having access to said metadata in said first database for translation between said first and second protocols”, as recited in claim 1. Claims 3, 9, 13, 35, 37, and 41 contain similar limitations also not described in or suggested by *Champlin*, *Ramberg*, *Pan*, or any proper combination of these references. Therefore, the action has not properly made a prima facie case of obviousness.

I. The references do not teach a process having access to metadata in a database for translation between a first and second protocol.

As the examiner has conceded, *Champlin* does not teach the use of second protocols and translation between first and second protocols. [See Office Action mailed on 9/26/2006, page 4; see also Office Action mailed on April 12, 2006, page 3.]

Instead, the examiner points to *Ramberg* to teach the use of second protocols and translation between first and second protocols. However, *Ramberg* does not teach translating between first and second protocols. *Ramberg* describes SNMP sub-agents which must interact with certain non-standard ADC devices such as bar code scanners. *Ramberg*'s MIB “essentially tells SNMP what pieces of information it can modify or view on the ADC device platform.” (col. 7 lines 32-34). *Ramberg*'s MIB does not provide the SNMP with information to translate between a first and second protocol, because designating a portion of information to view or modify on a device platform is not a translation between a first and second protocol. Therefore, though *Ramberg* uses the term “translate” in an inaccurate sense (see col. 7 lines 55-58), *Ramberg* does not actually disclose or suggest translating between a first and second protocol.

The examiner points to *Pan* merely to demonstrate the existence of the COPS-PR protocol. (See Office Action mailed on 9/26/2006, page 8). *Pan* does not teach the use of second protocols and translation between said first and second protocols.

II. There is no motivation to combine the references.

There is no motivation to combine the teachings of *Ramberg* with *Champlin*. The examiner alleges that “a motivation is provided to allow *Champlin*’s system to communicate with devices operated under different protocols as taught by *Ramberg*.” (See Office Action mailed on 9/26/2006, page 2). However, the examiner is wrong that one would be motivated to add devices that operate under different protocols to *Champlin*’s system.

Champlin does not disclose a need to communicate with devices operated under different protocols. All of the elements in *Champlin* communicate using the SNMP protocol. The motivation behind the teachings described in *Champlin* is to change data formats within the SNMP protocol to limit data parsing. (See col. 3, lines 36-42). The mere fact that a non-standard protocol for ADC devices existed would not suggest to one of skill in the art to incorporate that non-standard protocol into the system of *Champlin*. Adding a non-standard ADC device would not in any way advance or improve the system of *Champlin*. (See Reply to Action of April 12, 2006, page 10). In fact, incorporating an additional non-standard device operating under a different protocol would only unnecessarily complicate the system of *Champlin*.

III. The references do not disclose a shim layer to translate between protocols.

Claim 3 discloses a process having access to metadata in a first database for translation between a first and second protocol comprising “a network shim layer providing an interface between said first process and said network” Claims 13 and 37 contain similar limitations.

The examiner contends that the system in *Champlin* “translates the protocol format from one format into the second format of appropriate SNMP agent 66, which serves the same function as the network shim layer is providing. Col 5 lines 41-51). (See Office Action dated 9/26/2006, page 6). The system in *Champlin* translates *between formats* within the SNMP protocol. The shim layer in claim 3 has access to metadata in a first database for translation *between protocols*. Therefore, the examiner is wrong that the system in *Champlin* serves the same function as the network shim layer of claim 3.

Further, *Ramberg* does not disclose or suggest “a network shim layer providing an interface between said first process and said network” for translation between a first and second protocol as recited in claim 3. As explained earlier, the SNMP agents of *Ramberg* access an

MIB to determine which portions of the ADC device platform to access or modify. The SNMP sub-agents 212 and 211 of *Ramberg* do not interact with a network; instead, they provide an interface between the SNMP master agent and the ADC devices. (See col. 7 lines 10-12). The communication interface 104 of *Ramberg* provides an interface with the network. (See Figure 2). However, the communication interface 104 of *Ramberg* does not interact with the ADC Device 101 and 102 of *Ramberg*, nor does it translate between a first protocol and a second protocol. Therefore, it does not provide an interface between a first process and a network for translation between a first and second protocol as recited in claim 3.

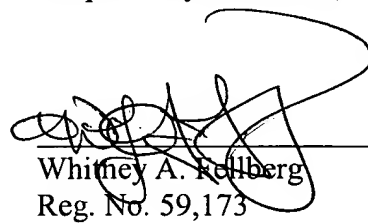
All of the dependent claims are patentable for at least the reasons for which the claims on which they depend are patentable.

Canceled claims, if any, have been canceled without prejudice or disclaimer.

Any circumstance in which the applicant has (a) addressed certain comments of the examiner does not mean that the applicant concedes other comments of the examiner, (b) made arguments for the patentability of some claims does not mean that there are not other good reasons for patentability of those claims and other claims, or (c) amended or canceled a claim does not mean that the applicant concedes any of the examiner's positions with respect to that claim or other claims.

Please apply any charges or credits to deposit account 06-1050, referencing attorney docket 10559-457001.

Respectfully submitted,



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Reg. No. 59,173

Date: December 22, 2006

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